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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,208	07/29/2003	Eiji Ozawa	8373.311US01	5663
23552	7590	06/09/2005	EXAMINER	
MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903			CAMPBELL, KELLY E	
			ART UNIT	PAPER NUMBER
			3618	

DATE MAILED: 06/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/629,208

Applicant(s)

OZAWA ET AL.

Examiner

Kelly E. Campbell

Art Unit

3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 11 and 16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10, 12-15 and 17-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 7/29/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

Claim 11 withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 3/15/05.

Further, the Examiner identifies claim 16 as being drawn to Species II, and thus is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Species.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2,5-7,10,12-13,18-21 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Inagaki et al (US 6,712,172) in view of Ito (US 4,721,178).

Inagaki et al a four-wheeled vehicle comprising: a steering mechanism (4) having a bar handle;

a front part having right and left front wheels (2); a rear part having right and left rear wheels (3);

a four-wheeled vehicle according to claim 1, further comprising a power unit part (P) including an engine (E) disposed below one of the driver's seat (6), said power unit part including a torque converter mechanism (T);

wherein said power unit part further includes a transmission mechanism (M) for transmitting an output from said torque converter mechanism (T) to said right and left rear wheels to drive said right and left rear wheels;

wherein said driver's seat includes a front part having driver's footrests provided at opposite sides thereof, said driver's seat being formed to allow a driver to sit astride thereon with his feet rested on said footrests;

wherein said right front wheel and said right rear wheel provide a first straight line extending there through, said left front wheel and said left rear wheel provide a second straight line extending there through;

With regards to the use of the term "footrests", a footrest is defined as a support for the feet, per Merriam-Webster's Collegiate Dictionary 10<sup>th</sup> edition, © 1993. Thus, any element "capable" of supporting a foot is designated a "footrest".

Inagaki et al does not teach a rear passenger seat facing forwardly and disposed behind the driver's seat.

Ito teaches a vehicle including a steering mechanism having a bar handle (G) with a driver's seat and backrest (3) disposed at said front part; and a rear passenger seat and backrest (3d) disposed behind said driver's seat (3) above the rear wheels and positioned at the waist level of the driver sitting on the driver's seat, the rear passenger seat (6) facing forwardly;

a storage portion (67);

a footrest portion (7) provided on opposite sides of the drivers seat (3) allowing a driver to sit astride and rest his feet; further providing a rear portion of the for resting the rear passengers feet behind the drivers footrest, see Figure 2;

further including a front cover (5) and windshield (9), see Figures 1 and 3, and a body cover or leg shield, see Figure 1, disposed below the driver's seat (5),

wherein the driver's seat and the passenger seat have a member (central portion of support bar 20) disposed there between and cooperating with to provide a single seat (3,3D).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the four-wheeled vehicle taught by Inagaki et al to include a seat having a driver portion and a passenger portion to allow for a more comfortable ride for both users.

Claims 3-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Inagaki et al (US 6,712,172) in view of Ito (US 4,721,178) as applied to claim 1 above, and further in view of Uphaus (US 5,984,356).

Inagaki et al modified by Ito teaches all aspects of the claimed invention, except upwardly projecting side edges.

Uphaus teaches a vehicle having a body (11) including foot rest positions, see Figure 1, and upwardly projecting side edges positioned within a region defined by straight lines between the front and rear left and right wheels.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the seats of the vehicle taught by Inagaki et al and Ito, to include upwardly projecting side edges, to prevent the users or riders feet from slipping off the vehicle when riding.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Inagaki et al (US 6,712,172) in view of Ito (US 4,721,178) as applied to claim 1 above, and further in view of Winchell et al (US 4,437,535).

Inagaki et al modified by Ito teaches all aspects of the invention, except the rider and passenger seat being substantially at the same level.

Winchell et al teaches a vehicle having a seat 112 forward on the vehicle for receiving the driver and a seat (116) at substantially the same level as the driver's seat, for receiving a passenger.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the seats of the vehicle taught by Inagaki et al and Ito, such that the driver and passenger are at the same height, to allow the passenger to be in closer proximity to the rider and to more easily mimic the riders movements when maneuvering the vehicle to minimize the likelihood of tipping.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Inagaki et al (US 6,712,172) in view of Ito (US 4,721,178) as applied to claim 1 above, and further in view of Rioux et al (US 6,296,073).

Inagaki et al modified by Ito teaches all aspects of the claimed invention, except the rear passenger seat having bulged portions.

Rioux et al teaches a seat 7, having a forward driver portion and rearward passenger portion, wherein the rearward portion has outwardly bulged portions at opposite sides thereof for providing a larger width than the driver's portion.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a passenger seat having a larger width than a driver's seat, in order to support a passenger of all sizes in addition to luggage or carrying items at the rear of the vehicle.

Claims 14-15, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Inagaki et al (US 6,712,172) in view of Ito (US 4,721,178) as applied to claim 1 above, and further in view of Mabie (4,466,660).

Inagaki et al modified by Ito teaches all aspects of the claimed invention as discussed above, except side support members united with backrest.

Mabie teaches a vehicle having first side support members (59) disposed opposite sides of the driver's seat (26), second side support members (57) disposed opposite sides of the passenger seat (27) and a backrest (28) disposed behind the drivers seat united with the first side support members (59).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the vehicle having backrest support for driver and passenger as taught by Inagaki et al modified by Ito, to include the backrest, side support assembly taught by Mabie in order to provide increased lumbar support to the rider and passenger.

Claims 22- 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Inagaki et al (US 6,712,172) in view of Ito (US 4,721,178) and Mabie (4,466,660) as applied above, and further in view of Kurata (US 4,606,429).

Inagaki et al modified by Ito and Mabie teaches all aspects of the claimed invention as discussed above, except roll bar support.

Kurata teaches a roll bar protective device for protecting the riders of a vehicle, see Figure 1, including:

a wheeled vehicle, front roll bar (7) disposed in front of a drivers seat (14) in an upright position;

a rear roll bar (9) disposed behind the rear passenger seat (9), the rear portion being a passenger seat portion of the seat (5), wherein a driver and passenger are "Capable" of sitting within the space defined by a straight line extending through the "vicinities" of the top ends thereof.

With regards to the limitation: "the front and rear roll bar provide a straight line extending through " the vicinities" of top ends thereof, the straight line having a space defined there below to allow a driver and rear passenger to sit on the seat within the



space", the validity of that limitation is dependent on the height/size of the user. A user of shorter height would more easily fit the description stated in the above limitation.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the vehicle including passenger seat with U-shaped bar frames supporting the back rests taught by Inagaki et al modified by Ito and Mabie, to include a roll bar protective system for shielding the rider during an accident resulting in tipping of the vehicle, as taught by Kurata.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Winchell teaches a vehicle having a driver and passenger seat integral with one another and at approximately the same height. Gutta teaches a four-wheeled vehicle having a roll bar configuration. Furuhashi teaches a vehicle having a roll bar configuration to protect the rider. Yates teaches a vehicle seat having bulging portions. Brown teaches a vehicle seat having bulging portions. Williams teaches a four-wheeled vehicle having a roll bar configuration. Rioux et al teaches a four-wheeled vehicle power train. Ohmika et al and Lainbock teach driver passenger seat combinations. Mueller et al teaches a vehicle including first or rearward (13) and second or forward (14) side bars, united with the roll bar protection, for additional rider/passenger protection when the vehicle is tipped.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kelly E. Campbell whose telephone number is (571) 272-6693. The examiner can normally be reached on 9:00-5:30 Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Ellis can be reached on (571) 272-6914. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



KEC



CHRISTOPHER P. ELLIS  
SUPERVISOR, ART UNIT EXAMINER  
TECHNICAL STAFF, 3618